IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL Nos.1309 and 1310 of 2004

WRIT APPEAL No.1309 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 08-07-2004 in WPMP.No.13124 of 2004 in W.P. No. 10344 of 2004 on the file of the High Court.)

Between:

1.The Divisional Forest Officer, Nalgonda, Nalgonda District.
2. Forest Range Officer, Deverkonda Range, Deverkonda, Nalgonda District.

..... APPELLANTS

AND

R. Rama Prasad, S/o. Late Sri Venkata Subba Rao,
R/o. 6-2-2/73, Road No. 5, Venkatramana Colony,
Nagole, Hyderabad.

.....RESPONDENT.

WRIT APPEAL NO : 1310 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 08-07-2004 in WPMP.No.13125 of 2004 in W.P. No.10344 of 2004 on the file of the High Court.)

Between:

1.The Divisional Forest Officer, Nalgonda, Nalgonda District.
2.The Forest Range Officer, Deverkonda Range, Nalgonda District.

..... APPELLANTS

AND

R. Rama Prasad S/o Late Sri Venkata Subba Rao,
R/o 6.2.2/73, Road No.5, Venkataramana Colony, Nagole, Hyderabad.

.....RESPONDENT.

Counsel for the Appellants : GOVT.PLEADER FOR FORESTS

Counsel for the Respondent: Mr.C.RAGHU

The Court made the following :

ORAL JUDGMENT: (per the Hon'ble the Chief Justice)

Writ petitioner filed writ petition against District Forest Officer, Nalgonda and Forest Range Officer, Devarakonda. Learned single Judge passed interim order which is now under challenge by the Department.

In the writ petition, action of the appellant in stopping the petitioner's mining activity in Sy.No.153 of Pennavora village, Peddavora Mandal, Nalgonda District of 4.858 hectares was questioned as arbitrary.

On 28-6-2004, Divisional Forest Officer, Nalgonda, filed a reply stating that Sy.No.153 is a poramboke land and was included in reserve forest long back and was notified under Section 4 of the A.P. Forest Act, 1967 and was published in the State Gazette as well as in the District Gazette. It is also stated that being forest area

within the reserve forest, the action of the petitioner in entering upon the said land and starting mining operations is a forest offence. Assistant Director of Mines and Geology addressed a letter to petitioner directing him to stop mining operations in Sy.No.153 immediately until further orders. It is also stated that the authorized officer i.e., Divisional Forest Officer under Section 44 of the Act has issued notice to petitioner and another on 22-6-2004 asking them to submit their representation as regards the seizure of the tractor with compressor.

Learned single Judge, by the impugned order, disposed of the two WPMPs directing release of the tractor and not to interfere with petitioner's mining operations in the reserve forest area.

In case, learned single Judge was of the view that the action of the appellant in preventing the respondent's mining operations is illegal, he could have as well taken up the writ petition for hearing and passed appropriate orders. If the tractor is released and the writ petitioner is permitted to carry on mining operations, it amounts to allowing the writ petition itself. Therefore, the impugned order is set aside. Learned single Judge will decide the writ petition itself and pass appropriate orders.

Writ Appeals are allowed. Writ petition be listed for hearing before the learned single Judge on 11-10-2004.

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(DEVINDER GUPTA, C.J.)

30th August 2004.

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(C.V.RAMULU, J.)

ARS

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday the Thirtieth day of August Two Thousand and Four.

To

1.The Divisional Forest Officer, Nalgonda, Nalgonda District.
2. Forest Range Officer, Deverkonda Range, Deverkonda, Nalgonda District.

3.Two C.Cs to Govt. Pleader for Forests, High Court Bldgs., Hyderabad (OUT).

4.Two C.D. copies.